MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Seth Taylor Workman,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

February 21, 2024

Court of Appeals Case No.
23A-CR-1046

Appeal from the Grant Superior Court

The Honorable Jeffrey D. Todd, Judge

Trial Court Cause No.
27D01-2101-MR-1

Memorandum Decision by Judge Bailey
Judges Crone and Pyle concur.

Bailey, Judge.

Case Summary

[1] Seth Taylor Workman challenges his convictions for: Count I, murder;[1] Count II, attempted murder, a Level 1 felony;[2] Count VI, dealing in marijuana, as a Class A misdemeanor;[3] Count VII, burglary, as a Level 2 felony;[4] Count VIII, theft, as a Class A misdemeanor;[5] and Count IX, carrying a handgun without a license, as a Class A misdemeanor.[6] We affirm.

Issues

[2] Workman raises the following two restated issues:

I. Whether the trial court abused its discretion when it denied Workman's motion to dismiss counts seven, eight, and nine on jurisdictional grounds.

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[1] Ind. Code § 35-42-1-1(1).

[2] I.C. § 35-42-1-1(1) and I.C. § 35-41-5-1(a).

[3] I.C. § 35-48-4-10(a)(2).

[4] I.C. § 35-43-2-1(3)(A).

[5] I.C. § 35-43-4-2(a).

[6] I.C. § 35-47-2-1(a), (e) (2020).

II. Whether the trial court abused its discretion when it admitted video and photo evidence relating to the burglary.

Facts and Procedural History

[3] On November 25, 2020, seventeen-year-old Workman, Collin McHarry, Skyler Kilsz, and Landon Lewis went to Peyton Mills's mobile home, which was located at 7980 E. County Road 700 S., Upland, Indiana. Workman, who had a firearm, and one of the individuals with him approached the mobile home. They broke inside, and Workman and his accomplice stole Mills's safe as well as a duffle bag containing several pairs of shoes. Afterward, they drove to Workman's home, where they used an axe to break open the safe. Workman later sold a pair of Mills's shoes to Merrick Rider.

[4] Shortly after the burglary, one of Mills's neighbors called Mills and the police to report the incident, and law enforcement officers determined that the glass in the front door of Mills's mobile home had been broken and was the entry point for the burglary. Police reviewed a surveillance video from Mills's home, and the video showed a truck pull up to the mobile home. Two individuals exited the truck and entered the mobile home through the front door. As they exited the home, both individuals appeared to be carrying firearms. Police were initially unable to identify the individuals in the surveillance video.

[5] At some point after the burglary, Mills received a Snapchat message from Kyler Mullenix. Workman had told Mullenix that he had taken the safe from Mills's home. Mullinex indicated to Mills that Mullinex's "homie" had burglarized

Mills's residence. Tr. v. V at 23. Mills believed Mullenix was referring to Workman. Mills was acquainted with Workman because they had "been in the same school district" and "around the same people[.]" *Id*. at 24. During the Snapchat conversation between Mullenix and Mills, Mullenix stated, "[I]t sounds like to me you're mad my homie licked you bro." *Id*. at 26.

[6] On December 30, 2020, seventeen-year-old Workman went to Mullinex's house and mentioned that he wanted to "shoot [Mills's] house up or shoot him." Tr. v. III at 191. Workman had a handgun with him. Workman also stopped by Lewis's house that same evening and left in a silver SUV after receiving a phone call.

[7] That same day, Workman told Rider he would give Rider one quarter pound of marijuana if Rider drove him to Mills's house. Rider did so, and Brandon West rode along with them. When they arrived at Mills's home, Workman exited the vehicle, approached the window near the front door of Mills's home, and fired multiple shots into the mobile home. At that time, Mills was in his home with his girlfriend, Khloe Martin, and they were sitting on a couch near the window by the front door. Mills had fallen asleep when suddenly he heard gunshots. Mills looked over and saw that Martin appeared to be "lifeless." Tr. v. V at 32. Mills then realized that he had been shot as well. Mills called 9-1-1 and went to his neighbor's home for help.

[8] Rider heard the gunshots. Workman then returned to Rider's vehicle and told Rider to "go go go." Tr. v. III at 229. Rider "freaked out" and "started

speeding away." *Id*. As they drove away from the area, Workman threw what Rider "assumed" was a gun out of the window while they were crossing a bridge. Tr. v. III at 230. They drove to Workman's house where Workman provided Rider with one quarter pound of marijuana.

[9] Law enforcement officers and paramedics were dispatched to Mills's residence. When paramedics arrived, they observed that Martin had a very weak pulse and two bullet wounds in her chest. There was also what appeared to be an exit wound in her upper back. Martin was transported by ambulance to the hospital but pronounced dead before she arrived. An autopsy showed that Martin had died as a result of a gunshot wound to her chest. Mills also had multiple gunshot wounds and was hospitalized for several months.

[10] During the subsequent investigation, police obtained a short video from Lewis's phone. The video, which appeared to have been recorded approximately one-half-hour after the November 25 burglary, showed Workman inside the garage at his residence, holding a gun and speaking loudly toward the camera, while an individual in the background used an axe to break open a safe. In the video, Workman, who is Caucasian, used the "n-word" several times while talking. State's Ex. 249, Appellant's App. at 158. Cell phone analysis showed that Rider and Workman were near Mills's residence at the time Mills was shot and Martin was murdered.

[11] On January 5, 2021, the State charged Workman with Count I, murder, a felony; Count II, attempted murder, a Level 1 felony; Count III, aggravated

battery, as a Level 3 felony;[7] Count IV, criminal recklessness, as a Level 5 felony;[8] Count V, possession of methamphetamine, as a Level 6 felony;[9] and Count VI, dealing in marijuana, as a Class A misdemeanor. Those offenses were alleged to have occurred on December 30, 2020. On February 2, 2021, the State added Count VII, burglary, as a Level 2 felony; Count VIII, theft, as a Class A misdemeanor; and Count IX, carrying a handgun without a license, as a Class A misdemeanor. Those offenses were alleged to have occurred on November 25, 2020.

[12] On February 19, 2021, Workman filed a motion to dismiss Counts VII through IX and a memorandum in support, claiming that the trial court did not have jurisdiction for these charges because Workman was seventeen years old at the time of the offenses. A hearing was held on Workman's motion on April 5, 2021. The State presented testimony from Grant County Sheriff's Lieutenant Jason Ewer that the November 25 burglary and the December 30 shooting were connected. The State argued that although, Workman committed the burglary while a juvenile, the charges concerning that incident were part of a series of events connected to the December 30 murder and attempted murder, for which Workman was properly charged as an adult. Thus, the State argued, the relevant statutes allowed the charges concerning the burglary to be joined to the

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[7] I.C. § 35-42-2-1.5.

[8] I.C. § 35-42-2-2(a), (b)(2).

[9] I.C. § 35-48.4-6.1(a).

murder and attempted murder charges. The trial court took the matter under advisement, and on April 12, 2021, the trial court issued an order denying Workman's motion to dismiss.

[13] At trial, the State entered into evidence its Exhibit 196, which is the video recorded from Lewis's phone, showing Workman speaking toward the phone camera and holding a gun while another person in the background used an axe to break open Mills's safe. The State also offered into evidence its Exhibit 221, a photograph from the video in Exhibit 196, showing Workman pointing a gun at the camera. *See* Appellant's App. at 158. Workman objected on the ground that the exhibits should not be admitted because they were more prejudicial than probative, and the trial court overruled his objection.

[14] At a jury trial held on February 7-16, 2023, the trial court granted Workman's motion to dismiss Count V, possession of methamphetamine, as a Level 6 felony. At the conclusion of the trial, the jury found Workman guilty of all remaining charges. At Workman's April 12, 2023, sentencing hearing, the trial court vacated the judgments on Counts III and IV due to double jeopardy concerns. The trial court imposed a sentence of fifty-five years on Count I, thirty years on Count II, one year on Count VI, seventeen and one-half years on Count VII, one year on Count VIII, and one year on Count IX. The court ordered all the counts to run concurrently except for Counts I and II. The result was an aggregate sentence of eighty-five years. This appeal ensued.

Discussion and Decision

Jurisdiction

[15] Workman asserts that the trial court erred in denying his motion to dismiss counts seven through nine on jurisdictional grounds. We generally review such a ruling for an abuse of discretion. *See, e.g.*, *Brittingham v. State*, 208 N.E.3d 669, 672 (Ind. Ct. App. 2023) (citing *Moss v. State*, 6 N.E.3d 958, 960 (Ind. Ct. App. 2016), *trans. denied*). However, when the motion presents a pure question of law, such as subject matter jurisdiction, we apply a de novo standard of review. *Id*.

[16] Workman acknowledges that the trial court had subject matter jurisdiction as to counts I, murder, and II, attempted murder, under Indiana Code Section 31-30-1-4(a)(1) and (2) because he was at least sixteen years old but less than eighteen years old at the time of the alleged violations. However, he contends that the trial court lacked jurisdiction over counts seven through nine because the juvenile court had exclusive jurisdiction over then-seventeen-year-old Workman under Indiana Code Section 31-30-1-1. We disagree.

[17] A juvenile court does not have jurisdiction over an individual aged sixteen or seventeen who is alleged to have committed murder or attempted murder. I.C. § 31-30-1-4(a)(1), (2). Rather, such charges must be brought in adult court. *See, e.g.*, *State v. Neukam*, 189 N.E.3d 152, 156 (Ind. 2002) (citing I.C. § 31-30-1-4(a))). When the State directly charges a juvenile in adult court of attempted murder or murder, as it did here, it may also charge the juvenile in the same proceeding with "any offense that may be joined under IC 35-34-1-9(a)(2)."

Ind. Code § 31-30-1-1(a)(10). "[S]ubsection 9(a)(2) permits joinder of crimes that 'are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan.'" *Neukam*, 189 N.E.3d at 156 (quoting § 35-34-1-9(a)(2)).[10]

[18] For example, joinder may be appropriate under subsection (9)(a)(2) where a "common relationship between the defendant and the victim[exists and] may even result in an interconnected police investigation in the crimes, producing overlapping evidence." *Pierce v. State*, 29 N.E.3d 1258, 1264 (Ind. 2015) (citing *Blanchard v. State*, 802 N.E.2d 14, 25 (Ind. Ct. App. 2004)). We have also found joinder appropriate where most of the same evidence and witnesses were required to prove both the adult-court charge and the charge that would otherwise be brought in juvenile court. *See State v. D.B.*, 819 N.E.2d 904, 906-07 (Ind. Ct. App. 2004), *trans. denied*.

[19] Here, one of the investigating officers testified that both the November and December 2020, crimes were "connected or intertwined." Tr. v. II at 22. He testified that the investigation into the December murder led to the discovery of video evidence from Lewis's cell phone, which provided a "clear suspect" in the November burglary. *Id*. at 18. He further testified that, based on his review of the video surveillance recordings in this case, the same person who committed the November burglary of Mills's home also fired shots into Mills's home in

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[10] "[W]here the offenses have been joined because the defendant's underlying acts are connected together, we review the trial court's decision for an abuse of discretion." *Pierce*, 29 N.E.3d at 1264 (citation omitted).

December. That is, the same person committed two crimes against the same victim, at the same location, within an approximate one-month-time-period, which led to an interconnected police investigation. Thus, the trial court found that:

> Counts 7-9 have been properly joined to Counts 1-6 because these additional charges are based upon a series of acts connected together. While the acts charged in Counts 1-4 and 7-9 occurred on different dates, they involve the same Defendant and the same alleged victims. In addition, Counts 1, 2, 3, 4, 7, 8, and 9 are alleged to have occurred at the same location and appears [sic] to be chapters in an ongoing dispute between Defendant and the alleged victim of Count 2.

App. v. II at 63.

[20] That decision to join the counts pursuant to Indiana Code Section IC 35-34-1-9(a)(2) was not an abuse of the trial court's discretion. Therefore, the trial court did not err when it denied Workman's motion to dismiss counts seven through nine for an alleged lack of subject matter jurisdiction.

Admission of Evidence

[21] Workman challenges the admission of State's Exhibit 196, the video taken approximately one-half hour after the November burglary and retrieved from Lewis's cell phone, and State's Exhibit 221, a photograph of Workman pointing a gun at the camera, taken from the video in Exhibit 196. Workman alleges that the two challenged exhibits should have been excluded from evidence because they were more prejudicial than probative under Rule of Evidence 403.

[22] We review evidentiary rulings for an abuse of discretion. *See, e.g., Snow v. State*, 77 N.E.3d 173, 176 (Ind. 2017); *see also, e.g.*, *Wallace v. State*, 79 N.E.3d 992, 999 (Ind. Ct. App. 2017) (internal quotation and citation omitted) ("The weighing of the probative value of evidence against the danger of unfair prejudice is a discretionary task best performed by the trial court."). Thus, we do not reweigh the evidence or judge witness credibility, and we consider conflicting evidence in the light most favorable to the judgment. *See id*.; *see also Wilcoxson v. State*, 132 N.E.3d 27, 31-32 (Ind. Ct. App. 2019) (noting trial courts are given wide latitude in weighing the probative value of evidence against the prejudice caused by its admission), *trans. denied*.

[23] Rule of Evidence 403 states:

> The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, or needlessly presenting cumulative evidence.

All relevant evidence is necessarily prejudicial in a criminal prosecution. *Bowman v. State*, 73 N.E.3d 731, 735 (Ind. Ct. App. 2017), *trans. denied*. In evaluating whether evidence is *unfairly* prejudicial and should have been excluded, we look for the dangers that the jury will (1) substantially overestimate the value of the evidence or (2) that the evidence will arouse or inflame the passions or sympathies of the jury. *Ward v. State*, 138 N.E.3d 268, 274 (Ind. Ct. App. 2019) (quotation and citation omitted).

[24] Exhibit 196, the video taken on Lewis's phone approximately one-half hour after the burglary, was highly relevant to Workman's commission of the burglary of Mills's safe, as it depicted Workman holding a gun and standing in the same room with individuals attempting to break into Mills's safe. Workman claims the probative value is outweighed by prejudice because the video is cumulative of evidence from Lewis's testimony that Workman had a gun during the burglary of Mills's home and that Mills stole the safe.[11] However, he does not argue or prove that the video was "needlessly" cumulative, as Rule 403 requires. Rather, Exhibit 196 provides the jury with video evidence that actually *depicts* Workman holding a firearm while others break into Mills's safe, only one-half hour after the burglary. The trial court did not abuse its discretion when it found the probative value of Exhibit 196 outweighed any alleged prejudice.

[25] State's Exhibit 221, on the other hand, arguably is more prejudicial and "needlessly … cumulative." Evid. R. 403. It is a picture taken from the video in Exhibit 196; therefore, it provides no probative evidence that is not already provided by the video in Exhibit 196. Furthermore, the picture shows Workman pointing a gun at the camera. There is no claim, much less actual evidence, that the gun depicted in Exhibit 196 is the same gun Workman used during the burglary and/or murder and attempted murder. Rather, we can

[11] Workman also mentions that the video contains "racial slurs," but he does not allege that those "slurs" are what make the video prejudicial. Appellant's Br. at 20.

conceive of no reason to introduce the picture of Workman pointing a gun at the camera other than to inflame prejudice in the jury by depicting Workman as a violent person. Exhibit 221 should have been excluded from evidence because its relevance was substantially outweighed by the danger of needlessly presenting cumulative evidence. *Id*.

[26] However, any error in admitting Exhibit 221 was harmless, as substantial independent evidence supported Workman's convictions. An error is harmless where "its probable impact, in light of all the evidence in the case, is sufficiently minor so as not to affect the substantial rights of the parties." Appellate Rule 66(A); *see also, e.g.*, *Hoglund v. State*, 962 N.E.2d 1230, 1238 (Ind. 2012) (observing error is harmless "if the conviction is supported by substantial independent evidence of guilt satisfying the reviewing court there is no substantial likelihood the challenged evidence contributed to the conviction"). Such was the case here. The State's substantial independent evidence against Workman included: testimony by multiple witnesses implicating him in the crimes charged; surveillance video evidence connecting him to the crimes; and cell phone evidence placing him near the scene of the murder and attempted murder. Given that substantial evidence, we are satisfied that any error in admitting Exhibit 221 likely did not contribute to the convictions.

Conclusion

[27] The trial court had subject matter jurisdiction over counts seven through nine. The trial court did not abuse its discretion in admitting Exhibit 196, and, to the extent it erred in admitting Exhibit 221, the error was harmless.

[28] Affirmed.

Crone, J., and Pyle, J., concur.

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